

DUTIES OF SUPERIOR OFFICERS

This order outlines the duties and responsibilities of superior and commanding officers.

I. POLICY**A. SUPERIOR OFFICERS.** All superior officers shall:

1. **CONDUCT.** Set an example of efficiency, sobriety, discretion, industry and promptness. Not use abusive language or act arbitrarily in dealing with subordinates.
2. **SUPERVISION.** Guide and instruct subordinates in the performance of their duties and require strict compliance with the policies and procedures of the Department and the orders of superiors. Promptly report in writing any misconduct by subordinates and forward the report to their superiors.
3. **CONTAGIOUS DISEASES.** See *Infectious Disease Control Manual*, DM-04,
4. **INVESTIGATION OF MISCONDUCT** (also see DGO 2.04, Citizen Complaints Against Officers and DGO 2.05, Citizen Complaints Against Non-Sworn Members). This section provides a format for investigating misconduct brought to the attention of superiors by other than a citizen's complaint.
 - a. When a superior officer becomes aware of possible misconduct by any member of his/her unit, the superior shall immediately notify the 1 senior-ranking officer on duty at the unit. The senior-ranking officer shall:
 - (1) Remain personally responsible for the conduct of the matter until relieved of responsibility.
 - (2) Conduct an administrative investigation in addition to any investigation that may be made by the Management Control Division or the Office of Citizen Complaints. (See DGO 2.08, Peace Officers' Rights)

DGO 1.06
08/24/94

- (3) Prepare an initial investigative report on memorandum (SFPD 68) addressed to his/her commanding officer before reporting off duty. The report shall contain information that can be reasonably obtained e.g., full identification of witnesses, summary of statements from witnesses, preliminary findings, and recommendations where appropriate.
 - (4) If it is necessary to relieve a member as unfit for duty (e.g., misconduct constituting criminal activity) contact the commanding officer at any time day or night. The commanding officer shall assume responsibility for the investigation, assure that proper investigative steps are being taken, and respond to the unit if necessary.
- b. When a superior officer becomes aware of possible misconduct by any member assigned to another unit, he/she shall:
- (1) Immediately notify the senior-ranking officer on duty at the member's unit. If the unit is closed, the commanding officer of the unit shall be notified at any time day or night.
 - (2) The senior-ranking officer or commanding officer (as appropriate) shall be responsible for performing the steps outlined in Section a. above.

B. COMMANDING OFFICERS. All commanding officers shall:

1. **ASSUMPTION OF COMMAND.** Within one week of assuming command, make an inspection of personnel to ensure they are equipped as required and conform to grooming standards.
2. **FACILITIES AND EQUIPMENT.** Be responsible for the general condition, cleanliness and order of facilities under their command and not permit any property to be improperly used, loaned or removed for private purposes. Also see DGO 3.03, Facilities Management.
3. **VACATIONS.** Arrange vacation periods for members of the command.
4. **RECORD INSPECTION.** Make continuous inspections of all records under their command.

5. **PERSONNEL DATA.** Keep a record of the residence address and telephone number of each member of their command, including patrol special officers, and forward copies to the Operations Center and the Personnel Division. When a member of the command is transferred to a unit, forward all his/her personnel data and records to that unit (see DGO 3.06, Residence Certification and PIP, A *Supervisor's Guide* DM-06.).
 6. **ATTIRE.** Be appropriately attired while attending any official meeting.
 7. **RETURN OF DEPARTMENT PROPERTY**
 - a. When members of their command are suspended from duty pending the filing and hearing of charges, or are found unfit for duty, relieve them of their Department-issued star, handgun, police identification and other Department property, except their uniform.
 - b. When members resign, are dismissed or retire, have them return their Department-issued property to the Property Control Section. Upon the death of a member, obtain Department-issued equipment from the family of the deceased and forward it to the Property Control Section
 8. **DEATH OF A MEMBER.** In the event of a member's death, make a report to the Chief of Police detailing the available facts. Whenever the death resulted from violence, unlawful means or other than natural causes, make a personal investigation of the incident and prepare a full report to the Chief of Police. Include whether the deceased was on or off duty or performing any public service at the time.
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COMPLAINTS AGAINST OFFICERS

2.04.01

PURPOSE

This order outlines the policies and procedures for receiving, investigating and processing complaints against officers. It also describes the Department of Police Accountability ("DPA") investigative procedures and findings.

It is the policy of the San Francisco Police Department ("SFPD") to encourage everyone to bring forward complaints regarding inadequate police service or official misconduct by officers, and receive such complaints with courtesy and without delay. The value of an effective complaints system serves to build and maintain public confidence and trust by conducting prompt, fair and impartial investigations. Officers shall cooperate fully with the DPA and provide their full assistance in the expeditious and impartial processing of such complaint.

2.04.02

POLICY

- A. It is the policy of the SFPD to accept all complaints of official misconduct regardless of source (e.g. juvenile, anonymous, third party, etc.), whether received electronically, by letter, telephone, or in person.
- B. When a complaint is made to an employee of the Department, the employee receiving the complaint shall immediately refer the matter to the senior-ranking officer on duty in the station, division, section, or unit where the complaint is being made. The senior-ranking officer on duty shall be personally responsible for the conduct of the investigation until relieved of responsibility as specified in this order.

In cases where the senior-ranking officer on duty at the station, division, section, or unit is the subject of the complaint, the employee shall refer the matter to the senior-ranking member's superior officer. The superior officer shall be personally responsible for the conduct of the investigation until relieved of responsibility as specified in this order.

In cases where the Chief of Police is the subject of the complaint, the employee shall refer the matter to the Director of the City and County of San Francisco's

Human Resources Division (“DHR”). The Director of DHR shall forward the complaint to the Director of the DPA.

- C. Attempts to threaten, intimidate, mislead, or harass potential or actual complainants, witnesses, or DPA or IAD investigative staff is prohibited. Sworn employees who are the subject of a complaint shall not contact the complainant or witnesses regarding the issues of the complaint. If such a sworn member must contact the complainant or witness to a complaint in the line of duty, the officer shall not discuss or make any reference to the complaint. This shall not preclude member's representative or attorney from gathering evidence or statements for their defense.
- D. Copies of the DPA Complaint Form (SFPD/DPA 293) and DPA's informational brochure shall be available on display for the public at all District Stations and any division, section or unit open to the public in languages consistent with San Francisco's Language Access Ordinance, SF Admin Code 91.1-91.9, DGO 5.20, Language Access Services for Limited English Proficient (LEP) Persons, and federal, state and local laws.

Employees shall provide a copy of the form and the informational brochure to any person appearing at a district station, or division, section, or unit open to the public who requests information about the DPA or requests general information about the complaint process.

If a member of the public requests information about the DPA or requests general information about the complaint process at a location other than a district station or division, section or unit open to the public, the employee shall provide the person with written information that includes the SFPD's and the DPA's website addresses.

2.04.03

PROCEDURE

A. RECEIVING A COMPLAINT / DUTIES OF SENIOR RANKING OFFICER

1. **EVALUATION.** Evaluate the seriousness of the allegation and determine whether an immediate investigation is needed (see Section B).
2. **FORM PREPARATION.** If the complaint is against an officer, prepare a DPA Complaint Form (SFPD/DPA 293). If the complainant is present, allow the complainant the option to personally complete the form or to have an officer prepare the form for them. If the complainant requests that an officer complete

the form, write only what the complainant states on this form and allow the complainant to review the form and make any corrections. Provide the complainant a copy. If the complaint is received by telephone, read the complainant's statement to the complainant as it is written on the form to assure accuracy. In either case, tell the complainant that the complaint will be referred to the DPA for investigation.

3. **ADDITIONAL INFORMATION/COMMENTS.** If there is any additional information or comments that should be brought to the attention of the investigator, do not include it on SFPD/DPA 293. Instead, prepare it on a memorandum to your commanding officer for review. The commanding officer shall then forward it promptly to the DPA.
4. **ROUTING.** Route by mail before reporting off-duty the original DPA compliant form to the DPA and forward a copy to your commanding officer.
5. **SFPD MEMBER INITIATED COMPLAINTS.** A DPA Complaint form shall not be completed when a complaint is made by any Department employee against another Department member. Instead, prepare a memorandum specifying the nature of the complaint and forward it to the accused officer's commanding officer, who shall forward the matter to the Internal Affairs Division (IAD) for investigation. Third party internal complaints shall be forwarded to IAD for review and if necessary assignment.
6. **GOVERNMENTAL AGENCY COMPLAINTS.** A complaint referred from a non-law enforcement agency (e.g., Office of the Public Defender, Office of Civil Engagement and Immigrant Affairs, or Department of Public Works) against a member of the SFPD shall be investigated by DPA. Upon receipt of a complaint, the DPA will immediately forward a copy of the complaint to the Chief of Police.
7. **LAW ENFORCEMENT AGENCY COMPLAINTS.** A complaint initiated by any Law Enforcement Agency against an SFPD member shall be investigated by IAD. The complaint shall be written on an SFPD memorandum form and forwarded through the chain of command to IAD.
8. **OFF-DUTY COMPLAINTS.** Off-Duty complaints shall be investigated by IAD. The complaint shall be written on a SFPD Memorandum form and forwarded through the chain of command to IAD. Complaints made against members who place themselves on duty by verbally identifying themselves, displaying a department issued star, or department issued ID card or taking enforcement action, shall be forwarded to DPA.

B. IMMEDIATE INVESTIGATION / DUTIES OF SENIOR-RANKING OFFICER

1. **WHEN.** Members must conduct an immediate investigation if a delay imposed by forwarding the complaint to DPA or IAD will jeopardize the investigation or public safety. The following are examples of situations requiring an immediate investigation and report:
 - a. The conduct is still occurring.
 - b. The allegation is that an officer is unfit to perform police duties, and that officer is currently on duty.
 - c. A witness may be unavailable later.
 - d. The complainant alleges criminal conduct.
 - e. The complainant alleges unnecessary force, resulting in serious injury and medical treatment.
2. **DPA/IAD NOTIFICATION.** When an immediate investigation is required, and the complaint is made by anyone other than a Department member or another law enforcement agency, immediately notify the DPA by calling the DPA at 415-241-7711. Calls to that number after business hours will forward to the answering service, which will connect the caller to DPA. IAD shall be notified in all cases of immediate investigations.
3. **INVESTIGATION.** If the accused officer is assigned to your unit, conduct an immediate investigation. Document your investigation on a memorandum and, if the complaint is made by a member of the public or a non-law enforcement agency, complete the DPA 293 form. Send the DPA 293 form to the DPA before reporting off-duty. Forward the investigation memorandum to your commanding officer for review. The commanding officer shall then forward the report promptly to the DPA for further investigation as well as a copy to IAD.
4. **UNIT NOTIFICATION/IMMEDIATE INVESTIGATION.** When the officer is assigned to another unit, immediately notify the senior-ranking officer on-duty at that unit who shall assume responsibility for the immediate investigation and memorandum. If the unit is closed, contact the officer-in-charge through the Operations Center. Prepare and forward a copy of DPA 293 to the DPA.

5. INVESTIGATION MEMORANDUM. The immediate investigation memorandum must contain all reasonably obtainable information before you report off duty. This includes, but is not limited to: (1) names, addresses, and telephone numbers of any witnesses, including the complainant; (2) statements from witnesses; and (3) any preliminary findings and recommendations. Document time, date and recipient's name of any notification made to DPA.

C. MEMBER RESPONSE FORMS

1. RESPONSIBILITIES OF MEMBERS. A Member Response Form (MRF) must be completed by the member and received by the DPA within twenty-one (21) calendar-days of the notice. Members are not required to respond until the member is on duty. A time extension shall not be granted except upon a showing of good cause submitted in writing by the member to the assigned DPA Investigator as soon as possible. The DPA Director or designee shall have sole authority to determine whether good cause exists. Good cause includes, but is not limited to illness, hospitalization, and unexpected family emergencies. If the member cannot meet this deadline, the member must contact the appropriate DPA investigator prior to the due date.
2. RESPONSIBILITIES OF COMMANDING OFFICERS. Commanding Officer, or designee, shall assure that all MRFs and notice of interviews by DPA are served upon the officer and a copy retained electronically in the Department approved platform. The Commanding Officer, or designee, shall assure copies of all DPA 293 Forms are retained at the Station or investigative unit. These functions may be accomplished electronically utilizing processes as designated by the Department.

D. DPA INTERVIEWS

Members shall appear for scheduled interviews and be prepared to proceed. If a member must reschedule, the member must contact the assigned investigator at least 24 hours prior to the interview. The inability to arrange for a specific representative will not necessarily be cause for rescheduling the interview. If an exigent circumstance presents itself, the officer or their representative shall notify the DPA investigator and the on-duty senior ranking supervisor of the officer to be interviewed. The DPA has sole authority to grant a request to reschedule.

2.04.04

DPA PROCEDURES

- A. JURISDICTION.** The DPA shall completely, promptly, fairly and impartially investigate any incident occurring within the City in which a member of the uniformed ranks of the Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental, and all complaints regarding police use of force, misconduct or allegations that a member of the SFPD has not properly performed a duty. The DPA shall investigate all such matters, except those complaints which clearly indicate that the acts complained of were proper, and those complaints lodged by other members of the San Francisco Police Department.
- B. ALLEGATIONS OF CRIMINAL CONDUCT.** If any portion of the complaint alleges criminal misconduct by a Department member, the DPA shall immediately forward the information presented by the complainant to the Department and District Attorney's Office. The District Attorney's Office shall only receive complaint forms or personnel files in accordance with Penal Code section 832.7(a). The OIC of the assigned criminal investigative unit will notify the OIC of IAD that the District Attorney has dismissed or filed charges in the case. The OIC of IAD will coordinate the notification and the production of a copy of the completed criminal case file to DPA.
- C. NOTIFICATION AND REVIEW.** After completing an investigation, the DPA shall ensure that every named officer and complainant receive a letter containing the disposition of the complaint and instructions for requesting a hearing. For investigations that contain multiple allegations against a member, the DPA will list the findings for each of the allegations.

2.04.05

INTERNAL AFFAIRS INVESTIGATIONS

Internal Affairs shall investigate complaints of members made by any Department member or Law Enforcement Agency, and all off-duty alleged misconduct. Additionally, all EEO complaints shall be referred to IAD's EEO Liaison, who shall in turn forward the complaints to the Department of Human Resources.

2.04.06

COMPLAINTS AGAINST DPA

Members who have a complaint regarding a DPA investigation, investigator, or attorney may file a written complaint with the DPA.

2.04.07

CLASSIFICATIONS OF COMPLAINTS AND FINDINGS

A. INVESTIGATIVE FINDINGS

The DPA and SFPD shall use the following terms and definitions to maintain consistency at the conclusion of investigations.

1. IMPROPER CONDUCT A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.
2. INSUFFICIENT EVIDENCE The evidence fails to prove or disprove that the alleged conduct occurred.
3. PROPER CONDUCT The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.
4. POLICY FAILURE The evidence proves that the alleged conduct occurred but was justified by Department policy or procedures; however, the SFPD or DPA recommends that the policy or procedure be changed or modified.
5. SUPERVISION FAILURE The evidence proves that the alleged conduct occurred and was the result of inadequate supervision.
6. TRAINING FAILURE The evidence proves that the alleged conduct resulted from inadequate or inappropriate training.
7. UNFOUNDED The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.
8. REFERRAL TO OTHER AGENCY The evidence proves that the alleged conduct did not involve a sworn member of the Department or that the complaint raised issues not within the scope of DPA or IAD. Referral to other agency allegations are not counted as complaints against sworn members of the Department.

9. WITHDRAWAL

The complainant failed to provide additional requested evidence, or the complainant requested a withdrawal of the complaint.

10. MEDIATED

The complainant and officer agreed to mediation as a non-disciplinary resolution. (DPA finding only)

B. CLASSIFICATIONS

DPA and the SFPD have agreed to formulate consistent language to refer to categories of alleged misconduct. The classifications are contained within the MOU between SFPD and DPA.

2.04.08

QUARTERLY MEETINGS BETWEEN DPA AND THE POLICE DEPARTMENT

A. Disciplinary Review Board (DRB) shall consist of the following:

1. The Assistant Chief of Staff or designee from the Risk Management Office;
2. The Deputy Chief of the Administration Bureau;
3. The Deputy Chief of the Field Operations Bureau;
4. A member of the Police Commission (Advisory);
5. The Director of the DPA, or designee (Advisory).

B. The DRB shall review and discuss:

1. Aggregate trends related to DPA and IAD complaints, both alleged and sustained.
2. Policy failure or training failure cases closed in the prior quarter.
3. The Department in consultation with the DPA will select sustained cases from the previous quarter for review to determine the need for training or policy changes.
4. SFPD and DPA Recommendations.

The DRB shall consider whether any policy, procedures or training needs to be revised, added or re-issued if it relates to the subject matter reviewed. The DRB may make written recommendations that include the manner in which the recommendation shall be implemented and a timeline for completion based upon identified priority level and complexity of recommendation.

The DRB shall report quarterly to the public and to the Commission those policy and training changes it recommends, and the measurement of the success or failure of each change, in a manner consistent with individual police officer privacy rights. The guidelines for the report are contained within the MOU between SFPD and DPA.

References:

MOU between SFPD and Department of Police Accountability

DGO 1.06, Duties of Superior Officers

DGO 5.20, Language Access Services for Limited English Proficient (LEP) Persons

San Francisco Administrative Code, Chapter 91.1 – 91.9

Penal Code Section 13012

ATTACHMENT 3

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF POLICE ACCOUNTABILITY AND THE SAN FRANCISCO POLICE DEPARTMENT DEPARTMENT GENERAL ORDER 2.04, COMPLAINTS AGAINST OFFICERS

I. PREAMBLE

The Department of Police Accountability ("DPA") and the San Francisco Police Department ("SFPD") hereby enter into this Memorandum of Understanding ("MOU") in order to establish procedures for the complaints and attendant administrative investigations of SFPD personnel.

The DPA is required to investigate all complaints against sworn members of on-duty police misconduct and off-duty police misconduct in which the sworn member is acting under the color of authority. The DPA shall completely, promptly, fairly and impartially investigate any incident occurring within the City in which a member of the uniformed ranks of the Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental, and all complaints regarding police use of force, misconduct or allegations that a member of the SFPD has not properly performed a duty. The DPA shall investigate all such matters, except those complaints which clearly indicate that the acts complained of were proper, and those complaints lodged by other members of the San Francisco Police Department.

The SFPD is responsible for investigating all internal complaints made by members of the San Francisco Police department, both sworn and non-sworn, complaints against non-sworn members, complaints from Law Enforcement agencies, including prosecutors, and complaints of off-duty misconduct, both sworn and non-sworn, complaints referred to the SFPD by the Whistleblower program.

II. PARTIES

This MOU is between the SFPD and the DPA (collectively "Parties").

III. TERMS AND DEFINITIONS

- A. **MEMBER.** Member, as that term is used in San Francisco City Charter Section 4.136(d) and DGO 3.02 means; any employee of SFPD.
- B. **SWORN MEMBER.** Sworn member means any employee of the SFPD who qualifies as a peace officer under Penal Code section 830.1.
- C. **UNIFORMED MEMBER.** Uniformed member includes any employee of the SFPD who is either a peace officer as that term is used in Penal Code section 830.1 or a Police Services Aide (PSA).
- D. **CRIMINAL INVESTIGATION.** An investigation conducted to determine whether any person committed a crime during the covered incident.
- E. **ADMINISTRATIVE INVESTIGATION.** An investigation conducted by SFPD or DPA

administrative investigators to determine whether any involved SFPD personnel violated any general order, regulation, or other workplace rule during the covered incident. This includes "internal" investigations.

IV. DPA PROCEDURES

A. DPA Investigations.

1. When there is sufficient evidence to proceed the complaint will be classified as an investigation and will be assigned to a designated DPA investigator, except those complaints which on their face clearly indicate the acts complained of were proper and those complaints lodged by other members of the Police Department.
2. DPA shall quarterly complete and send updates on cases to IAD with expected completion dates and the statute of limitations deadline. (3304) govt. code
3. DPA shall notify the Chief of Police and IAD of all cases that reach the six month mark inclusive of cases which may be tolling. (3304) govt. code.
4. DPA shall use its best efforts to conclude investigations of complaints and, if sustained, transmit the sustained complaint to the Police Department within nine months of receipt thereof by DPA.
5. If DPA is unable to conclude its investigation within such nine-month period, the Director, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter.
 - a. Completed or pending DPA case files sent to the Chief of Police or IAD, shall contain a copy of the original complaint, chronological of investigation, all audio or video evidence, transcripts, investigative notes, investigative summary, pending or final conclusions, and pending or final recommendations.
 - b. For all cases that the DPA fails to meet the nine-month deadline, the Director shall advise the Chief of Police of the specific reasons for said failure and expected completion date(s).
6. The DPA shall send completed investigations to IAD within thirty (30) days of the DPA Director's approval except those over the nine (9) month deadline which shall be sent immediately.

In cases involving concurrent investigations, DPA shall not receive the IAD investigative conclusions and recommendations until IAD has received the completed DPA report.

7. Upon final disposition of an investigation of a complaint, the DPA shall issue a letter to the complainant and every named officer that includes the findings of each allegation in

the complaint.

B. DPA Morning Reports.

The DPA will transmit a Morning Report that will document the number and types of complaints, the district of occurrence, and officer information and if available identification of specific officer(s) involved. The Morning Report should have summaries of the incident and be sent weekly to IAD for review and analysis.

C. Allegations Involving Criminal Conduct.

If any portion of the complaint alleges criminal misconduct by a Department member, the DPA shall immediately forward the information presented by the complainant to the Department and District Attorney's Office. The District Attorney's Office shall only receive complaint forms or personnel files in accordance with Penal Code section 832.7(a).

The OIC of the assigned criminal investigative unit will notify the OIC of IAD that the District Attorney has dismissed or filed charges in the case. The OIC of IAD will coordinate the notification and the production of a copy of the completed criminal case file to DPA.

D. Government Claims.

SFPD will not forward these claims to the DPA. The City Attorney shall be responsible for production of government claims to DPA.

E. Controller's Office Whistleblower Complaints.

The Controller's Office designates the investigating agency. The Whistleblower complaints forwarded by the Controller's office to the SFPD shall remain confidential and not be forwarded to the DPA.

F. Notification and Review.

After completing an investigation, the DPA and SFPD shall ensure that every named officer and complainant receive a letter containing the disposition of the complaint and instructions for requesting a hearing. Notification shall be sent within thirty business days of the disposition.

V. CLASSIFICATIONS

DPA and the SFPD have agreed to formulate consistent language to refer to categories of alleged misconduct.

VI. TRANSMITTAL TO AND ACTION BY DEPARTMENT ON COMPLAINTS SUSTAINED BY THE DPA

- A. When a complaint has been sustained by a preponderance of the evidence, and the DPA investigation has been completed, the DPA's complete case file and findings shall be transmitted to the Police Chief or the Chief's designee for review and actions.
- B. The Chief or the Chief's designee shall complete his or her review and make an action recommendation within forty-five (45) days of receipt of a DPA case. (Section 4.136.(e))
- C. If, however, the Chief or Chief's designee cannot meet the deadline he/she shall seek an extension of time from the Police Commission. The Commission shall be advised of the reasons for the request for deadline extension, and accused officer(s), complainant(s) and witness(es) shall be informed of any delays and time extensions beyond the initial 60-day period.
- D. DPA shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The Director, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the Director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the Director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or her designee fails or refuses to meet and confer with the Director on the matter, or (3) other exigent circumstances necessitate that the Director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343.
- E. In cases where the DPA has sustained a complaint by a preponderance of the evidence against the Chief of Police, the DPA shall transmit its complete case file and findings to the Police Commission for review and action.

VII. MONTHLY REPORTS AND MEETINGS.

- A. Reporting on the status of Sustained Complaints.
The SFPD shall adhere to section SF Admin Code 96.2 (a-c) and San Francisco Police Commission Resolution 97-04 or successor resolution in the reporting of all DPA and IAD sustained complaints, per an agreed template.
- B. SFPD DPA Monthly Meeting.
There shall be a regularly scheduled monthly meeting, in which the Chief of Staff of the SFPD and the Chief of Staff of the DPA meet to discuss discipline, policy and training recommendations.

VIII. QUARTERLY REPORTS AND MEETINGS

A. DPA Policy Recommendations.

The Police Department and the DPA shall provide a quarterly report (commonly known as the Sparks' Report) to the Police Commission concerning the status of revisions to Department General Orders, new General Orders and DPA policy recommendations. Both the Department and the DPA shall collaborate on prioritizing the recommendations in the Sparks Report.

1. High-Priority: Mandated by law, Police Commission, immediate public safety issue.
2. Medium Priority: The issue is important, but does not necessitate immediate implementation
3. Low Priority: The issue(s) identified occur infrequently and do not affect the day to day operations between the SFPD and the public.

B. Statistics and Recommendations.

1. The DPA, as directed by the Police Commission, compiles and publishes monthly summaries and quarterly reports of complaint statistics.
2. DPA submissions shall include statistical data reports specifically related to the following; total number of complaints, the status of all investigations related to those complaints and data specific to their findings.
3. DPA shall identify the categories and demographic information of all complainants and sworn members. (Age, gender, ethnicity, occupation, or other demographic information collected on the DPA Form 293)
4. These summaries and reports include, but are not limited to, the disposition by the Chief of Police and the Police Commission of complaints and allegations referred to the Chief of Police by the DPA Director.
 - a. The DPA, as directed by the Police Commission, prepares and publishes quarterly recommendations concerning policies and practices of the Department.
 - b. The Department and DPA shall review quarterly statistical reports within two weeks of receipt. The Department and DPA shall cross-check information on cases sustained by the DPA, and confer on discrepancy and accuracy.

IX. DECONFLICTION OF REVIEW BOARDS

In cases where incidents being examined fall under multiple review board jurisdictions, the SFPD shall in consultation with DPA, determine the appropriate review board.

X. DOCUMENT CONTROL AND DISTRIBUTION

Immediately upon receipt, the DPA will provide a copy of any request for police personnel records to the Commanding Officer of Risk Management, unless prohibited by State or Federal law.

Dated: 5/22/19

William Scott
WILLIAM SCOTT
CHIEF OF POLICE
SAN FRANCISCO POLICE DEPARTMENT

Dated: 5/28/19

Paul Henderson
PAUL HENDERSON
DIRECTOR
DEPARTMENT OF POLICE ACCOUNTABILITY

San Francisco Police Department

**Disciplinary Penalty &
Referral Guidelines
for Sworn Members of the
San Francisco Police
Department**



San Francisco Police Department

DISCIPLINARY PENALTY AND REFERRAL GUIDELINES

I. PURPOSE

These guidelines are presented as examples of the factors the Chief of Police and the Department of Police Accountability (“DPA”) will consider in determining the charges for instances of misconduct. This will also serve as a guide when considering the classifications of misconduct, and appropriate penalties for sustained violations. The Disciplinary Penalty and Referral Guidelines will enhance consistency and assist in determination of appropriate and reasonable penalties. For purposes of these guidelines the term “employee” means sworn member of the San Francisco Police Department.

II. REFERRAL TO THE FULL COMMISSION

Under San Francisco Charter section A8.343, the Chief may impose discipline of up to a 10-day suspension on allegations brought by the Internal Affairs Division or the DPA. Employees disciplined at the Chief’s level, except for written reprimands, may appeal that discipline to the Police Commission. Written reprimands may be appealed to the Department.

Some allegations of employee misconduct, even on a first offense, are so serious that the public interest is best served by presenting them to the Commission for hearing and determination. Additionally, depending on the severity of the offenses, the accused employee’s disciplinary history, the number of violations included in the allegation as well as other factors, the Chief or the DPA may elect to file charges with the Police Commission. Any discipline sought must be consistent with principles of just cause and progressive discipline.

III. REVIEW OF SUSTAINED ALLEGATIONS OF MISCONDUCT

The suggested penalties are intended for guidance but are not binding. The referral guidelines are meant merely as a guide or starting point for assessing the appropriate level of discipline and should not be employed in a mechanical fashion. Fairness, consistency, and clearly-stated expectations make discipline tenable in large organizations. The attached matrix is intended to aid the Department, the DPA, and the Police Commission in the fulfillment of these tenets. It identifies ranges of possible penalties for various acts of employee misconduct with increasing levels of severity based on recurrences, consistent with principles of progressive discipline.

An offense is considered a first offense when it is formally documented that the Department attempted to correct the employee’s undesirable conduct. An offense should be considered a second or third offense only when it is of the same general nature as the previous misconduct. The offenses need not be identical. Additionally, the period of consideration for prior offenses shall be seven years from the date the

previous discipline was issued.

A penalty matrix cannot address all potential misconduct. As such, when recommending the appropriate discipline, the assessment should be reasonable in light of the employee's disciplinary history (or lack thereof), the facts unique to each case, and mitigating and aggravating factors.

Recommended discipline should normally fall within the range determined by the matrix, provided that it is consistent with principles of progressive discipline and supported by evidence establishing just cause for the recommendation. However, the matrix is ultimately only a guideline and not a mandate. Disciplinary recommendations shall consider mitigating and aggravating factors as outlined below. Such factors may justify a disciplinary recommendation that falls outside of the matrix or establish the appropriate penalty within the matrix. The maximum suspension an employee may receive per sustained allegation is ninety (90) days. (DGO 2.07; City Charter A8.343).

The following mitigating factors shall be considered:

- The misconduct was not willful or deliberate;
- The misconduct was not premeditated;
- The misconduct did not result in unwarranted injury or harm;
- The misconduct involved minor negligence or recklessness;
- The employee had a secondary or minor role in the misconduct;
- The employee may not have reasonably understood the consequences of his or her actions due to inexperience or lack of training;
- Commendations **and other positive work reviews** the employee has received;
- The employee was forthright and cooperative during the investigation;
- The employee is remorseful **and has taken steps to self-correct**;
- The employee reported the harm caused by the rule violation, or independently initiated steps to mitigate it; and
- The employee has not been disciplined for misconduct within the seven years preceding the incident.

The following aggravating factors shall be considered:

- The misconduct was willful and deliberate;
- The misconduct involved gross negligence or recklessness;
- The misconduct was premeditated;
- The employee had a primary or leadership role in the misconduct;
- The employee should have known that his or her actions were inappropriate based upon **training or** experience;
- The employee was not forthright or truthful during the investigation;
- The misconduct was motivated by ~~unlawful~~ bias and/or discrimination **that is unlawful or is prohibited by Department policy.**

- Serious consequences occurred or may have occurred from the misconduct;
- The misconduct was committed with malicious intent or for personal gain;
- The misconduct resulted in unwarranted injury;
- Multiple sustained findings from incident;
- The employee has a history of prior discipline within seven years; or
- The misconduct negatively impacted the Department's reputation, credibility or mission or diminished public confidence in the Department.

The aforementioned factors are not exhaustive. Any relevant aggravating or mitigating factor may be considered.

In cases involving multiple violations, those recommending discipline should base their decision on the most serious single sustained violation. Other sustained rule violations should be considered aggravating factors which may elevate the final disciplinary recommendation.

IV. MEDIATION

Mediation is an alternative way of resolving complaints about police conduct. The DPA has a mediation program that enables complainants to resolve their issues with the accused employee in a face to face dispute resolution process involving a trained mediator. The goal of the program is to bring together the involved parties in an effort to achieve mutual understanding. Mediation is limited to eligible cases as determined by the DPA and must be agreed to by both the complainant and the accused employee. Cases that are successfully mediated are not considered disciplinary proceedings in an employee's record.

Department employees and the DPA are encouraged to take advantage of mediation when feasible.

Table of Contents

Page 5 – Use of Force

Page 6 – Search and Seizure

Page 7 – Conduct Unbecoming an Officer

Page 10 – Neglect of Duty

Page 14 – Alcohol and Drugs

Page 16 – Bias, Rudeness, and Harassment

LEGEND	
A	Admonishment ¹
B	Reprimand
C	Suspension of 1 to 10 days
D	Suspension of 11 to 20 days
E	Suspension of 21 to 30 days
F	Suspension of 30 to 90 days
G	Demotion of Rank
T	Termination

Note: Category "G" should be considered when the employee is in a civil service classification of inspector, sergeant or above.

USE OF FORCE

Firearm Discharge	First Offense	Second Offense	Third Offense
The unintentional discharge of a firearm, on or off-duty, with or without injury, determined to be out of policy (DGO 8.11, DGO 5.01)	A-T	B-T	T
The intentional discharge of a firearm, on or off-duty, in the performance of law enforcement duties, determined to be out of policy (DGO 8.11, DGO 5.01)	B-T	C-T	T

Unauthorized Force	First Offense	Second Offense	Third Offense
Unauthorized Use of force (excluding firearm discharges) <u>in a manner that is unlawful or inconsistent with Department Policy</u> (DGO 5.01)	A-T	C-T	E-T
Failure to comply with Use of Force policy (<u>e.g., failure to report</u>) (DGO 5.01)	A-T	C-T	E-T

¹ An admonishment is intended to serve as a warning to an officer regarding potential only and does not constitute formal discipline for future misconduct. Therefore, an admonishment may be considered in subsequent disciplinary determinations. (DGO 2.07).

SEARCH AND SEIZURE

Detention/Arrest Violation	First Offense	Second Offense	Third Offense
Improperly detaining or transporting a person (DGO 5.03)	B-T	D-T	T
Improperly arresting a person (DGO 5.03)	B-T	D-T	T

Search Violation	First Offense	Second Offense	Third Offense
Improper s Search or seizure of a person, property, vehicle, or location; <u>or improper entry to property in a manner that is unlawful or inconsistent with Department policy</u> (DGO 5.03)	A-E	D-T	T

CONDUCT UNBECOMING AN OFFICER

General Unbecoming Conduct	First Offense	Second Offense	Third Offense
Convicted of a felony (DGO 2.01, Rule 9)	T		
Convicted of a misdemeanor (DGO 2.01, Rule 9)	C-T	E-T	T
Failure to cooperate with an <u>administrative or criminal</u> investigation (DGO 2.01, Rules 9, 21)	C-T	D-T	T
Off-duty, improper remark <u>or communication</u> to on-duty law enforcement personnel <u>that is unlawful or inconsistent with Department Policy</u> (DGO 2.01, Rule 9)	A-F	B-F	T
Use of official position to solicit gratuities/gifts/special favors (DGO 2.01, Rule 27)	B-T	E-T	T
Inappropriately e Converting on duty contact to off-duty relationship <u>in a manner that is unlawful or inconsistent with Department policy</u> (DGO 2.01, Rules 9, 40)	A-F	B-T	
Intentionally damaging body camera system (DGO 2.01, Rule 22)	E-T	T	
Failure to maintain valid driver's license/registration/car insurance (DGO 2.01, Rule 9),	A-B	B-F	D-T
Compromise an official investigation (DGO 2.01, Rule 48)	B-T	E-T	T
Regular or continuous personal, non-work related relationship with a known felon except where unavoidable due to familial connection (DGO 2.01, Rules 9, 10).	E-T	T	

Inappropriately s Strike another person while off-duty in a manner that is unlawful or inconsistent with Department policy (DGO 2.01, Rule 9)	A-F	C-T	T
Violate court order as determined by the court (DGO 2.01, Rule 9)	B-F	E-T	T
Legally prohibited from possessing a firearm (DGO 2.01, Rule 9)	T		
Unable to perform essential functions of a Police Officer (DGO 2.01, Rule 4)	T		
Work off-duty while on temporary modified-duty disability pay or status when it is unlawful or inconsistent with Department policy (DGO 2.01, Rule 9)	B-T	T	
Inappropriate accessing of databases/ confidential information (DGO 2.01, Rules 9, 10)	B-F	E-T	T
Unauthorized disclosure of confidential information (DGO 2.01, Rules 9, 48, 49)	B-T	E-T	T
Improper use of Department Computer systems for non-duty related activities (DGO 2.01, Rules 9, 10)	A-F	C-F	D-T

	First Offense	Second Offense	Third Offense
Detrimental Workplace Behavior			
Conduct that interferes and/or disrupts work performance or the work environment (DGO 2.10, Rules 1, 5, 9; 11.07)	A-B	B-F	E-T

	First Offense	Second Offense	Third Offense
Domestic Incident			
Domestic Violence Incident (DGO 2.01, Rule 9; 6.20)	E-T	T	

Violation of a court order related to domestic violence, including but not limited to a restraining order, or conditions of probation. (DGO 2.01, Rule 9)	B-F	E-T	T
Unable to possess a firearm by virtue of a domestic-related criminal conviction (DGO 2.01, Rule 9)	T		

Sexual Misconduct	First Offense	Second Offense	Third Offense
Obscene conduct or improper touching of an adult in a sexual manner (DGO 2.01, Rule 9)	C-T	T	
Obscene conduct or improper touching of a juvenile in a sexual manner (DGO 2.01, Rule 9)	T		
Forced or coerced sex acts upon another (DGO 2.01, Rule 9)	T		
Solicitation of sexual acts (DGO 2.01, Rule 9)	D-T	T	

Financial Dishonesty/Theft	First Offense	Second Offense	Third Offense
Any action by an employee on or off-duty with the intent to obtain compensation or benefits to which the employee is not entitled, including but not limited to; benefit abuse, overtime abuse, false credit application, insurance fraud, insufficient funds check or other act which could form the basis for criminal filing of theft or fraud (DGO 2.01, Rule 9)	T		
Improper Use Faking or converting of money or property from another (DGO 2.01, Rule 9, DGO 6.15)	T		
Converts found/seized/recovered property to personal use (DGO 2.01, Rule 9, DGO 6.15)	T		
Converts City property/resources to personal use (DGO 2.01, Rule 9)	B-T	T	

NEGLECT OF DUTY

General Neglect of Duty	First Offense	Second Offense	Third Offense
Failure to care for Department/City equipment, resulting in its damage/loss (DGO 2.01, Rule 23; DGO 10.02)	A-B	B-C	C-T
Improper/unsafe use of Department/City equipment (DGO 2.01, Rule 23; DGO 10.02)	A-B	B-C	C-T
Fail to activate body-worn camera as required (DGO 10.11)	B-C	B-F	C-T
Inappropriately disable, deactivate, or mute body-worn camera or intentionally obstruct audio or video recording. (DGO 10.11)	C-T	C-T	
Fail to properly care for/book property of arrestee/victim/other (DGO 6.15)	A-B	B-C	C-T
Excessive tardiness (DGO 2.01, Rule 1, 4, 5)	A-B	B-C	C-T
Absent from post/assigned area/duty station without authorization (DGO 2.01, Rule 1; DGO 1.03)	A-B	B-C	C-T
Negligently prepares/submits inaccurate/incomplete Department or other official report (DGO 2.01, Rules 1, 9, 25)	A-E	B-T	E-T
Fail to report for duty as scheduled (DGO 2.01, Rules 1, 4, 5)	A-C	B-D	E-T
Fail to handle assigned radio call (DGO 2.01, Rules 1, 9; DGO 1.03)	A-C	B-D	E-F
Abuse of sick leave (DGO 2.01, Rules 10, 49)	A-C	B-D	E-F
Intentional failure to report misconduct by another sworn or non-sworn employee (DGO 2.01, Rule 9; DGO 2.04)	B-D	D-T	T

Fail to process report in timely manner (DGO 1.03)	A-B	B-C	C-T
Fail to properly search vehicle/holding tank/cell (DGO 1.03)	A-B	B-C	C-T
Fail to properly search arrestee/detainee (DGO 1.03, 5.18)	A-B	B-C	C-T
Release wrong prisoner/property from custody (DGO 2.01, Rules 1, 9, 35; DGO 5.18)	A-C	C-E	F-T
Fail to control arrestee/detainee resulting in escape (DGO 2.01, Rule 35; DGO 5.18)	A-C	C-E	F-T
Fail to properly care for/monitor person in custody (DGO 2.01, Rule 35, DGO 5.18)	A-C	C-E	T
Work secondary employment without approval (DGO 11.02)	A-B	B-C	C-F
Fail to initiate/process personnel complaint (DGO 2.04; DGO 2.05)	B-F	E-T	T
Fail to properly review/approve Department report(s) (DGO 1.04; DGO 1.06)	A-F	C-F	E-T
Duplicate or retain body camera recording without authorization (DGO 10.11; DGO 2.01, Rule 48, 49)	B-F	B-F	E-T
Asleep while on duty (DGO 2.01, Rule 42)	A-C	C-E	E-T
Failure to carry required equipment (DGO 2.01, Rule 6; DGO 10.02)	A-B	B-C	C-F
Violation of any other Department general order, bulletin, rule, policy or manual or federal, state or local law (e.g. DGO 5.20 (Language Access), DGO 7.01 (Juvenile Procedures), DHR harassment policy)	A-F	E-T	T

Failure To Appear	First Offense	Second Offense	Third Offens
Failure to appear at judicial, administrative, or legislative proceeding, DPA or IAD interview, or Department required training or qualification (DGO 3.08)	A-B	B-C	C-F

Failure to access and acknowledge paper/electronic subpoena (DGO 3.08, 2.01, Rule 9)	A-B	B-C	C-F
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Driving & Traffic Collisions	First Offense	Second Offense	Third Offense
Driving a City vehicle in a grossly negligent or reckless manner (DGO 2.01, Rule 23)	B-F	D-T	T
Involved in, and at fault for, a collision (DGO 2.01, Rule 23)	A-F	C-F	D-T
Driving a City vehicle in violation of policy, resulting in a fatality or severe injury (DGO 2.01, Rule 23)	B-T	E-T	T
Out of policy pursuit (DGO 5.05; 2.01, Rule 10)	A-F	B-T	C-T
Failure to follow pursuit policy (DGO 5.05; 2.01, Rule 10)	A-F	B-T	C-T
Failure to wear seat belt while operating or riding in a City vehicle as required (DGO 2.01, Rule 23)	A-B	A-C	B-F

False Statements Including Reporting/Documentation	First Offense	Second Offense	Third Offense
Making a material statement, written or verbal, within the scope of employment that the speaker knows or should have known is false (DGO 2.01, Rules 9, 10, 21)	T		
Making a non-material statement to a supervisor or investigator that the speaker knows or should have known is false (DGO 2.01, Rule 21)	C-F	T	
Intentionally fail to disclose information in an official document or communication that employee knew or should have known was relevant (DGO 2.01, Rules 9, 10, 21)	C-T	T	

Insubordination	First Offense	Second Offense	Third Offense
Failure to comply with a lawful order or direction, whether verbal, written, or electronically conveyed (DGO 2.01, Rule 10)	B-T	D-T	T

Other Policy/Rule	First Offense	Second Offense	Third Offense
Carrying/using unauthorized weapon/ammunition on or off duty (DGO 10.02)	A-C	B-T	D-T
Conduct on or off-duty, which may bring discredit to the employee, the Department, or the City, and which is not specifically classified under another category (DGO 2.01, Rule 9)	A-T	B-T	C-T
Direct/permit/authorize subordinate to commit misconduct (DGO 2.01, Rule 9; DGO 1.04; DGO 1.06)	B-T	T	

ALCOHOL AND DRUGS

(Consistent with Department General Orders and policies, the Department or Commission may refer officer to therapy in lieu of discipline when deemed appropriate.)

Alcohol Related (Other than DUI)	First Offense	Second Offense	Third Offense
Unable to report for duty due to alcohol consumption (DGO 2.02; DGO 11.11)	B-F	D-T	T
Unfit for duty due to alcohol consumption (DGO 2.02)	B-F	E-T	T
Improperly p Possessed alcohol on duty (DGO 2.01, Rule 39)	B-C	D-T	T
Improperly e Consumed alcohol on duty (DGO 2.02)	B-F	E-T	T
Alcohol-Related incident off duty (Unbecoming Conduct) (DGO 2.01, Rule 9; DGO 2.02)	B-F	E-T	T
Failure to comply with Department's DGO 11.11 program (DGO 11.11; 2.01, Rule 10)	B-T	D-T	T

Driving While Impaired	First Offense	Second Offense	Third Offense
Driving under the influence, no aggravating circumstances (DGO 2.01, Rule 9)	C-D	T	
Violation of a probation or court order (DGO 2.01, Rule 9)	E-T	T	

Narcotics/Drugs	First Offense	Second Offense	Third Offense
Ingest/under the influence of illegal narcotics/drugs (DGO 2.03)	T		
Possess/sell/purchase/transport illegal narcotics/drugs (DGO 2.03, DGO 2.01, Rule 9)	T		
Improperly provide/offer prescription drugs (DGO 2.03, DGO 2.01, Rule 9)	B-T	T	
Improperly sell prescription drugs (DGO 2.03, DGO 2.01, Rule 9)	T		
Unfit for duty while under the influence of prescription drugs (DGO 2.03, DGO 2.01, Rule 9)	B-F	E-T	T
Improperly use/possess prescription drugs (DGO 2.03, DGO 2.01, Rule 9)	B-T	T	

BIAS, RUDENESS, AND HARASSMENT

Biased Policing	First Offense	Second Offense	Third Offense
<p>Knowingly engaged in Biased Policing or Discrimination (including but not limited to DGO 2.01, Rules 9, 10, 14; DGO 5.03, DGO 5.17; and DGO 11.07)*</p> <p>*Implicit bias, when detected, will result in notice to the officer accompanied by additional training, counseling, and/or education as deemed appropriate. Reoccurring implicit bias issues with the same member will no longer be considered implicit or unconscious and can result in discipline.</p>	T		

Discourtesy	First Offense	Second Offense	Third Offense
<p>On-duty discourteous act or statement reasonably known to offend, belittle or defame directed toward a particular person (DGO 2.01, Rules 9, 14)</p>	B-T	D-T	T
<p><u>Disability</u>: A discourteous act or statement reasonably known to offend, belittle or defame based on the actual or perceived disability of another which is uttered, written, or transmitted via any media, to or about another person.</p>	B-T	D-T	T
<p><u>Ethnic/Racial</u>: A discourteous act or statement reasonably known to offend, belittle or defame based on the actual or perceived race or ethnicity of another which is uttered, written, or transmitted via any media, to or about another person.</p>	B-T	D-T	T
<p><u>Gender Identity/Expression</u>: A discourteous act or statement reasonably known to offend, belittle or defame based on the actual or perceived gender identity or expression of another which is uttered, written, or transmitted via any media, to or about another person.</p>	B-T	D-T	T
<p><u>Religion</u>: A discourteous act or statement reasonably known to offend, belittle or defame based on the actual or perceived religion of another that is uttered, written, or transmitted via any media, to or about another person.</p>	B-T	D-T	T

Sexual Orientation: A discourteous act or statement reasonably known to offend, belittle or defame based on actual or perceived sexual orientation of another which is uttered, written, or transmitted via any media, to or about another person.	B-T	D-T	T
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Unequal Treatment Violation-Workplace/Prohibited Expressions of Bias	First Offense	Second Offense	Third Offense
Display/transmit/post material demonstrating bias or discrimination against any <u>protected</u> groups, <u>including but not limited to race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability</u> (DGO 2.01, Rule 9; 11.07)	C-T	T	
<u>Retaliatory conduct that is unlawful or inconsistent with Department policy</u> (DGO 2.01, Rules 9, 10; 11.07)	D-T	T	
Improperly or unlawfully imposing disparate treatment/adverse impact/failing to provide reasonable accommodation to any of protected groups, <u>including but not limited to race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability</u> (DGO 2.01, Rule 9; 11.07)	C-T	E-T	T
Other forms of unequal treatment <u>inconsistent that are unlawful or inconsistent Department policy</u> (DGO 2.01, Rule 9; 11.07)	B-T	C-T	D-T

Unwelcome Sexual Advances-Workplace	First Offense	Second Offense	Third Offense
<u>General</u> : Sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature in the workplace that is not welcomed by another (DGO 2.01, Rules 9, 10; 11.07)	C-T	T	
<u>Quid Pro Quo</u> : Sexual advances, requests and/or conduct that is either explicitly or implicitly made and when submission to or rejection of such conduct is used as the basis for employment decisions (DGO 2.01, Rules 9, 10; 11.07)	T		

